

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF OKLAHOMA**

EARL L. BLEVINS,

Plaintiff,

v.

**CAROLYN W. COLVIN,
Acting Commissioner of the Social
Security Administration,¹**

Defendant.

Case No. CIV-12-327-SPS

OPINION AND ORDER

The claimant Earl L. Blevins sought judicial review of the decision by the Commissioner of the Social Security Administration (“Commissioner”) denying benefits pursuant to 42 U.S.C. § 405(g). The claimant argued that the Administrative Law Judge (“ALJ”) erred by: (i) failing to properly consider the “other source” opinion of his group therapy counselor, Ms. Garrison; and (ii) failing to base his findings on substantial evidence because the evidence relied upon by the ALJ was not contained in the record on appeal therefore failed to allow for proper review.


After the claimant filed his appellate brief, the Commissioner moved to remand the case to a different ALJ, who will properly consider Plaintiff’s claims for the correct time period at issue and fully comply with the Court’s instructions in its March 24, 2011, order remanding the March 11, 2009, (Tr. 462-473, 496-508), and further make sure that

¹ On February 14, 2013, Carolyn W. Colvin became the Acting Commissioner of Social Security. In accordance with Fed. R. Civ. P. 25(d), Ms. Colvin is substituted for Michael J. Astrue as the Defendant in this action.

all exhibits are properly admitted into and included in the administrative record. The claimant does not object to the Commissioner's Motion to Remand [Docket No. 19]. The Commissioner's motion is therefore GRANTED.

Accordingly, the Court finds that the decision of the Commissioner is unsupported by substantial evidence and is therefore REVERSED pursuant to the fourth sentence of 42 U.S.C. § 405(g). The case is hereby REMANDED to the ALJ for rehearing and a new administrative decision that properly considers the relevant time period as further ensures that all exhibits are admitted and included in the administrative record. The claimant is the prevailing party in this action and the Court will therefore render a separate judgment in her favor pursuant to Fed. R. Civ. P. 58(b)(2)(B).

DATED this 17th day of April, 2013.


Steven P. Shreder
United States Magistrate Judge
Eastern District of Oklahoma